IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1596 OF 2006

Somnath S. Vaidya ..Petitioner

versus

State of Maharashtra & Ors. ..Respondents

Shri V. S. Marwadi, Advocate appointed and Shri Vilas Mali for the Petitioner.

Shri A. S. Gadkari, APP for the Respondents - State.

CORAM : R.M.S. KHANDEPARKAR &
SMT. V.K. TAHILRAMANI, JJ.

DATE : 12TH JULY, 2007.

P.C.

1. Heard Advocate Shri S. V. Marwadi who was appointed as amicus curiae as well as Advocate Shri Vilas Mali on behalf of the petitioner and the Government Advocate.

2. By the present petition, the petitioner is seeking the following reliefs :

(A) Be pleased to issue writ of mandamus or writ of similar nature /directions /orders /

compelling Honourable Sessions Judge Ratnagiri to allow the revision filed by the

petitioner considering all factual & legal aspects involved in present matter, since there is no single iota of evidence, by virtue of which it can be proved that petitioner is involved in present matter and further direct C.J.M. Ratnagiri to discharge the petitioner. That also though said matter is adjourned from time to time at the request of the petitioner since he is a professional, however at the same time it cannot be ignored that prosecution has also got ample time to produce all such evidences of absolute standard by virtue of which it can be proved beyond any reasonable doubt that petitioner has committed the alleged offence.

(B) Or in alternative be pleased to issue writ of appropriate nature / direction / orders, directing Honourable Sessions Judge, Ratnagiri, to quash and set aside the order of refusal of discharge of the petitioner passed by the Honourable C.J.M. Ratnagiri, since there are no any such evidence / evidences of any standard, which even by stretch of imagination can prove that petitioner is involved in any such alleged, illegal or any such non-jurdicus matter, full of absurdities.

(C) Or in alternative be pleased to withdraw all & entire proceeding pending before Sessions Judge Ratnagiri under the article 228 of the Indian Constitution and kindly verify all the entire evidences on records & kindly issue appropriate directions to the Sessions Judge Ratnagiri that after careful perusal of entire records, pass the order, which will in reality meet the ends of equity.

(D) Or in alternative petitioner being professional & at the same time, patient of heart hypertension, diabetes & depression be

pleased to transfer the present matter pending before C.J.M. Ratnagiri, to Mumbai, before Honourable Addl. Chief Metropolitan Magistrate; by issuing Writ of appropriate nature / orders / directions or u/s. 407 of Cr.P.C.

3. Plain reading of the prayers would reveal that none of those reliefs can be granted in writ jurisdiction. Undisputedly the petitioner has preferred Revision Application against the order passed by the Magistrate and the same is pending before the Sessions Judge, Ratnagiri. The petitioner therefore has explored alternative efficacious remedy available to him.

4. The learned Advocate appearing for the petitioner contended that apart from the reliefs prayed for, the petitioner is praying to quash the FIR dated 1.6.1996 which is registered at Ratnagiri Police Station. While it was not disputed that FIR on the face of it apparently discloses cognizable offence. It is sought to be challenged on the ground that various defences are available to the accused in answer to the allegations made in the FIR. Certainly, those cannot be the grounds for quashing of the FIR. While expressing our appreciation for the assistance rendered by Mr.

Marwadi, as do not find any case for interference in the matter, the petition is rejected. Needless to say that the Sessions Court at Ratnagiri should expedite the disposal of the Revision Application filed by the petitioner. With these observations, the petition is disposed of.

(R.M.S. KHANDEPARKAR, J.)

(SMT. V.K. TAHILRAMANI, J.)